

# Exhibit 3

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA**

AIR FORCE OFFICER, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 5:22-CV-00009
	)	
LLOYD J. AUSTIN, III, <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	

**DECLARATION OF COLONEL JAMES A. RIGSBEE**

I, James A. Riggsbee, hereby state and declare as follows:

1. I am a Colonel in the United States Air Force currently assigned at Headquarters, Air Force Reserve Command (AFRC) located at Robins Air Force Base, Georgia. I serve as the Chief, Readiness and Integration Division within the HQ AFRC Directorate of Manpower, Personnel, and Services. I have been in this position since August, 2019. As a part of my duties, I am responsible for procedural guidance and advisory support leveraging military Human Resource systems, data, and analytics in order to evaluate and execute command readiness and personnel programs. Recently, I have assumed responsibility for leading the HQ AFRC Operational Planning Team (OPT) related to the COVID-19 vaccine policy. As such, I oversee implementation and tracking of the policy's enforcement for the 70,000-member command.
  
2. I am generally aware of the allegations set forth in the pleadings filed in this matter. I make this declaration in my official capacity and based upon my personal knowledge and upon information that has been provided to me in the course of my official duties. I know the identities of Air Force Officer (the original, single Plaintiff in this case) and Air Force NCO. Air Force

Officer is a Colonel in my Directorate in the Resilience and Development Division and Air Force NCO is a Master Sergeant in the HQ AFRC Directorate for Logistics, Engineering, and Force Protection. I can provide their names if required, consistent with the protective order in place in this case. I am aware of the status of Air Force Officer's and Air Force NCO's religious accommodation appeals and any subsequent actions taken.

3. Air Force NCO's religious accommodation request was denied on appeal on December 27, 2021. Upon denial, Air Force NCO submitted a request for retirement on January 30, 2022, which the Air Force is still processing. Air Force NCO requested an effective retirement date of June 1, 2022. Given Air Force NCO's pending retirement request, his Active Guard Reserve (AGR) tour was not curtailed pending his retirement and he did not receive adverse action in accordance with the Secretary of the Air Force's policy dated December 7, 2021.

4. At the time of drafting this declaration, the Air Force application virtual personnel center (vPC) is degraded. As such, the defendants are unable to provide standalone evidence of Air Force NCO's retirement request processing. However, attached is a screenshot of information the degraded vPC shows as of the date this declaration is executed. Beginning along the top, it lists the "type" as "retirement" as submitted by the member Air Force NCO. The date created is the date he submitted the request, January 30, 2022. The retirement application progress bar across the middle shows the request's current status as pending audit after command coordination was received by Air Reserve Personnel Center (ARPC). Below that lists the "retirement date" as June 1, 2022. This is the retirement effective date Air Force NCO requested. The screenshot bottom displays "coordination actions," which correspond to the green "coordination" checkmark in the retirement application progress bar. It shows Air Force NCO's two levels of required command approval before the application was submitted to ARPC. Coordination was completed by his G-

Series order commander, Lieutenant Colonel Regina Reyes, on February 16, 2022 and his Director, Brigadier General William Kountz, on February 22, 2022.

5. Pursuant to the December 7, 2021 policy, members normally are required to begin terminal leave no later than 60 days after notification of the religious accommodation request denial. However, despite his requested retirement date, Air Force NCO has not begun terminal leave due to his pending Medical Evaluation Board (MEB) processing. The MEB process will determine whether he is entitled to further evaluation for possible disability benefits through the Disability Evaluation System (DES) due to a potentially medically-disqualifying condition that is unrelated to his unvaccinated status. The MEB's purpose is to determine if a member's duty-interfering condition is potentially unfitting for continued military service. Air Force NCO's commander must fill out a mission impact statement after coordinating with the medical provider. An MEB will then be appointed to examine the case. If the MEB determines Air Force NCO's condition is not potentially unfitting, then he will be returned to duty. If the MEB determines the condition is potentially unfitting, then the case will proceed to an Informal Physical Evaluation Board (IPEB) that examines the case based on the paper record only. If the IPEB's determination is unfavorable to Air Force NCO, he has the option to appeal the finding to a Formal Physical Evaluation Board (FPEB) where he has the right to a hearing. The MEB, and further DES processing if warranted, will likely require at a minimum several months to complete. Air Force NCO's medical processing may impact the retirement processing and retirement date. Air Force NCO's AGR orders are presently current through February 23, 2023, meaning he is in an active duty status through such date. He has not been transferred to the Individual Ready Reserve ("IRR"). Discharge proceedings have not been initiated against him,

much less completed.<sup>1</sup> Accordingly, these actions have not been reviewed by the Discharge Review Board and/or the Air Force Board for Correction of Military Records (AFBCMR).

6. Air Force Officer was notified that her religious accommodation request was denied on appeal on December 6, 2021. Upon denial, Air Force Officer submitted a request for military retirement on December 11, 2021. Air Force Officer requested an effective retirement date of June 1, 2022. Pursuant to Air Force policy, Air Force Officer was placed in a no pay/no points military status on February 4, 2022. However, this Court issued a preliminary injunction on February 15, 2022 enjoining the Air Force from enforcing the vaccination mandate or from taking any adverse action against Air Force Officer on the basis of this lawsuit or her religious accommodation request. This included “forcing her to retire.” Based on the injunction, the Air Force rescinded Air Force Officer’s no pay/no points status on February 15, 2022 and Air Force Officer submitted a request to withdraw her retirement application. Her supervisor, Colonel Harold Linnean, concurred with the request on February 16, 2022. As of this date, the Air Reserve Personnel Center (ARPC) confirmed that Air Force Officer is not currently being processed for a military retirement. She has not been transferred to the IRR. Discharge proceedings have not been initiated against her, much less completed. Accordingly, these actions have not been reviewed by the Discharge Review Board and/or the AFBCMR.

7. Air Force Officer serves as an Air Reserve Technician (ART), and as such maintains an equivalent position in her civilian status. She submitted a religious accommodation request from the civilian vaccination mandate in her civilian capacity on November 4, 2021. That request has not been acted upon as of the date of this declaration in accordance with DoD guidance on

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<sup>1</sup> Absent additional issues, Air Force policy is to not discharge traditional reservists who continue to refuse to follow an order to vaccinate. When a service member is subject to administrative discharge and an MEB, the member cannot be discharged until the MEB process is completed.

processing civilian religious accommodation requests after a nationwide injunction was granted in *Feds for Medical Freedom et al v. Biden et al*. Pending further guidance after that injunction was overturned, civilian requests are still in a hold posture and have not been processed.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed this 11th day of May 2022.

RIGSBEE.JAMES.A  
LFRED.1235056271  
JAMES A. RIGSBEE, Colonel, USAF  
Chief, Readiness and Integration Division

Digitally signed by  
RIGSBEE.JAMES.ALFRED.12350  
56271  
Date: 2022.05.11 16:07:53 -04'00'

Attachment:

Screenshot of “Air Force NCO” Retirement Application Progress in Air Force MyPers Virtual Personnel Center (vPC), undated

1 entries returned - 1 entries matched

Type	Request ID *	Submitted By	Member	Unit	Date Created	Status
Retirement	RET0144303	MSGT	MSGT	0 HQAF RESERVE CM	30 Jan 2022	Work in

https://mtloadbalancer.arpc.af.mil/Tcacheids/5232c348dformat.html - ARPC/WebRetirementsPro - Internet Explorer provided by

## myPers Retirement Application Progress Bar

Coordination Received by ARPC Pending Audit Assigned to Technician Orders Requested Orders Completed Application Processed Sent to DFAS Certificate Requested Certificate Mailed Completed

The Progress Bar may not be visible after the Retirement Application is Processed. To view the status of your Retirement Application, go to the Action Request Tab and select the Retirement Application Status Link found in the Retirements Section. Click the link to select the incident listed and the status bar auto updates with the current status for your incident.

Retirement Date: 6/1/2022 Requested Action: Apply

FinalOrders  
FinalAttachment  
FinalAttachment  
FinalAttachment  
FinalAttachment  
FinalAttachment

If using Chrome or Edge:  
- Right-click File  
- Save in order to open file

Print Descriptions Open Reviews (0) Summary Report

### Coordination Actions

2 entries returned - 2 entries matched

Assignee	Status	Days Pending	Created	Coordinated
Unit Commander (LT COL REGINA REYES)	Completed	18	01/30/2022	02/16/2022
Wing Commander or equivalent (BRIG GEN WILLIAM MOUNT, Completed	Completed	6	02/17/2022	02/22/2022

Refresh